

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
LUFKIN DIVISION

JAMES BRIAN CHAPPELL, #1003411 §
VS. § CIVIL ACTION NO. 9:05cv13
WILLIAM SHERMAN, ET AL. §

ORDER OF PARTIAL DISMISSAL

The above-entitled and numbered civil action was heretofore referred to United States Magistrate Judge Judith K. Guthrie, who issued a Report and Recommendation concluding that the claims against Defendants Patricia K. Schultz, Janie Thomas, Hal Baldwin, Edward W. Gaona, Joan M. Roberts, Peggy S. Phlem and Ronald Kelly should be dismissed for failure to prosecute and failure to obey an order in that the Plaintiff failed to obey an order to provide the correct addresses for the Defendants in order that they may be properly served. The Plaintiff has filed objections.

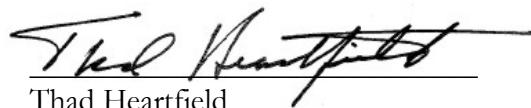
The Report of the Magistrate Judge, which contains her proposed findings of fact and recommendations for the disposition of such action, has been presented for consideration, and having made a *de novo* review of the objections raised by the Plaintiff to the Report, the Court is of the opinion that the findings and conclusions of the Magistrate Judge are correct and the objections of the Plaintiff are without merit. The Plaintiff's argument that the Court should waive summons for the Defendants is contrary to law. Moreover, his argument that the Defendants should be served at work is also contrary to law. The Plaintiff alone has the responsibility to serve the Defendants. His failure to provide the appropriate addresses for them in order that they may be served may not be

excused. Therefore the Court hereby adopts the findings and conclusions of the Magistrate Judge as the findings and conclusions of the Court. It is accordingly

ORDERED that the claims against Defendants Patricia K. Schultz, Janie Thomas, Hal Baldwin, Edward W. Gaona, Joan M. Roberts, Peggy S. Phlem and Ronald Kelly are **DISMISSED** without prejudice for failure to obey an order and failure prosecute. Fed. R. Civ. P. 41(b); Rule 41, Local Rules for the Eastern District of Texas. It is further

ORDERED that the Plaintiff's motion for leave of Court to have TDCJ-ID provide addresses for Defendants or waive summons for them (docket entry #77) is **DENIED**.

SIGNED this the 25 day of **October, 2005**.



Thad Heartfield
United States District Judge